

[REDACTED]

[REDACTED]

[REDACTED]

EP/EO:TECH

AUG 23 1982

Dear Sir or Madam:

Your application for exemption from Federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code has been given consideration.

The evidence presented disclosed that you were incorporated on [REDACTED], under the [REDACTED] Nonprofit Corporation Act.

Article [REDACTED] of the Articles of Incorporation states your purpose for organizing is "Scientific, educational, charitable, and religious purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1954." You have stated that; its specific purpose is "to assist ministries in setting up good solid organizations helping them get established according to the laws that govern."

You have proposed activities of providing a facility for use by pastors on retreat; advising ministries about the availability of good bookkeepers, lawyers, CPAs, secretarial services, and counselling in these areas; counselling on church financing, business management, balanced living, care of the elderly, and marriage counselling; and buying in bulk such items as tapes, labels, and paper products. You have also indicated that the facility for retreats will have swimming, fishing, golf, and horseback riding, and the format for the retreats is structured to emphasize "quiet time and not always teaching."

Your income will be from tithes and contributions, and expenses will include rent, speakers fees, directors fees, and gifts. Rent is paid to [REDACTED], a for-profit corporation in the home improvement industry, the directors of which are also directors of [REDACTED].

Section 501(c)(3) of the Internal Revenue Code of 1954 provides for the exemption of certain organizations described in subsection 501(c).

"(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the

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provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office."

Section 1.501(c)(3)-1 of the Income Tax Regulations relates to the definition of the organization and operation of organizations described in Section 501(c)(3). It reads, in part, as follows:

"In order to be exempt as an organization described in Section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.—The term 'exempt purpose or purposes', as used in this section, means any purpose or purposes specified in Section 501(c)(3).—"

"An organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

In Schoger Foundation vs. Commissioner, 76 TC 380 (1981), the court held that an organization which provided a facility for religious retreats, which emphasized "free time" or solitude rather than maintaining structured or scheduled activities, did not establish that it was engaged primarily in activities which advance religion. The court also stated that an organization will not qualify for exemption if a non exempt activity has more than an insubstantial non exempt purpose in citing Better Business Bureau vs. United States, 326 U.S. 279, 283 (1945), and First Libertarian Church vs. Commissioner, 74 TC 396, 403 (1980).

Revenue Ruling 72-369, 1972-2 C.B. 245 held that an organization formed to provide managerial and consulting services at cost to unrelated exempt organizations was not entitled to exemption under Section 501(c)(3). The ruling further indicated that providing managerial and consulting services on a regular basis is a trade or business ordinarily carried on for profit.

Additionally, Revenue Ruling 76-442, 1976-2 C.B. 148 denied exemption to a nonprofit organization whose primary activity is offering free legal services for personal tax and estate planning to individuals who wish to make contributions to charity. The ruling further indicated that providing commercially available services as described is not a charitable activity in the generally accepted legal sense.

Moreover, an organization is not organized or operated exclusively for one or more exempt purposes specified in Section 501(c)(3) unless it serves a public rather than a private interest. To meet this requirement, it is necessary for an organization to establish clearly that it is not organized or operated for the benefit of any private interests.

Based upon information contained in Form 1023 and supporting documents and correspondence, we have determined that you are not operated exclusively for an exempt purpose within the meaning of Section 501(c)(3) of the Code. Further, you have not established clearly that you are not organized or operated for the benefit of private interests.

Therefore, you do not qualify for exemption as an organization described in Section 501(c)(3) of the Code.

You are required to file Federal income tax returns annually on Form 1120.

If you do not agree with these conclusions, you may, within 30 days from the date of this proposed adverse determination letter, appeal to the Regional Office through this Key District Office. Your appeal should contain the information described under Regional Office Appeal in the enclosed Publication 892, and should be mailed to this office. The Regional Office will let you know what action they take, and will set a date and place for any conference to be held. If a written protest is not received within 30 days this determination letter will be final.

Section 7428(b)(2) of the Internal Revenue Code provides, in part, that:

"A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

[REDACTED]

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies.

This is a determination letter.

Sincerely yours,

[REDACTED]

[REDACTED]
District Director

Enclosure
Publication 892